

Appl. No. 09/751,334
Amtd. Dated 06/28/2004
Reply to Office Action of 5/28/2004

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed November 15, 2004. In the Office Action, claims 17-24 and 29-43 were rejected under 35 U.S.C. §102(e) as being anticipated by Adachi (U.S. Patent No. 6,256,334). In addition, claims 25-28 and 44-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Adachi. Accordingly, Applicants respectfully submit that a *prima facie* case of anticipation and obviousness has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989).

Herein, as shown in Figure 10, Adachi discloses data fragmentation for use in combination with RTS/CTS. For instance, step S42 of Adachi's technique is configured to determine whether RTS/CTS is being used, and if so, determines either data is fragmented (S51). Only in the event where data is not fragmented, Adachi discloses a decrease in the fragmentation threshold. See steps 51-52. If RTS/CTS is not being used (step S42), a determination is made whether it is better to use RTS/CTS (step S45), and if so, RTS/CTS data transmissions are supported (step S46). If RTS/CTS is still considered not to use, a determination is made whether data is fragmented, and if so, determines an increase in fragmentation threshold and use of RTS/CTS transmissions (step S47-S49).

Adachi does not disclose or even remotely suggest a method or logic circuit adapted to transmit a message to one or more wireless units including (i) a first control data that causes the one or more wireless units to enable RTS/CTS data transmissions in transmitting data packets to said access point, and (ii) a second control data that causes said one or more wireless units to automatically adjust a fragmentation threshold in response to changes within the wireless transmission medium *independent of whether or not RTS/CTS data transmissions are used*. Moreover, the method or logic circuit is further adapted to *continue to adjust the fragmentation threshold based on a measured transmission error factor*. These limitations are set forth in independent claims 17, 21, 25, 29, 41 and 44.

In view of the foregoing distinctions, Applicants respectfully request withdrawal of the §102/103 rejections.

The Examiner is requested to contact the undersigned attorney to discuss the patentability of the pending claims in order to facilitate prosecution of the subject application. The undersigned attorney can be reached at the phone number listed below.

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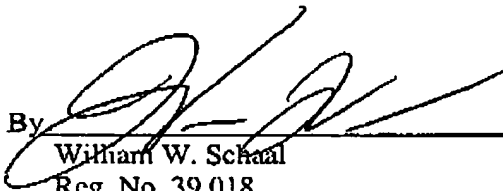
Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: February 15, 2005

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Date: 02/15/2005


Susan McFarlane
Date: 02/15/2005